



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 90-50 – Regulations Governing the Certification of Massage Therapists
Department of Health Professions
July 2, 2008

Summary of the Proposed Amendments to Regulation

The Board of Nursing (Board) proposes to: 1) reduce the requirement for continuing education (CE) from 25 hours every two years to 24 hours, 2) add cardiopulmonary resuscitation (CPR) as a qualifying course for CE, 3) amend language describing what types of relationships with clients constitute grounds for disciplinary action, 4) add clarifying language, and 5) repeal obsolete language.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Under the current regulations to renew certification as a massage therapist a practitioner must either hold current certification by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) or obtain 25 hours of continuing education (CE) each two-year certification period. “Hours chosen shall be those that enhance and expand the skills and knowledge related to the clinical practice of massage therapy...” At minimum half of those hours must be in activities or courses provided by an NCBTMB-approved provider and may include seminars, workshops, home study courses, and continuing education courses. The remaining hours can be from activities or courses that may include consultation, independent reading or research, preparation for a presentation or other such experiences that promote continued learning. Also, at least one of the hours must be in professional ethics.

NCBTMB requires 48 hours of CE in order to be re-certified every four years. In order to be consistent with NCBTMB the Board proposes to reduce the CE requirement to 24 hours each

biennium. This modest change should not significantly affect massage therapists continuing competence and may provide a small cost savings.

The Board also proposes to specify that a course in CPR qualifies for CE credit. According to the Department of Health Professions (Department), CPR courses would most likely not qualify under the current regulations. The ability to properly administer CPR clearly has value in that it can potentially save lives. CPR may not be as directly related to maintaining and improving the skills and knowledge related to performing massage therapy as other qualifying courses and activities, but given that practitioners must still satisfy a significant number of CE hours that are more directly related coupled with the significant benefit of CPR, this proposal likely produces a net benefit.

The current regulations specifically list “Initiating or engaging in any sexual conduct involving a patient” as grounds for discipline. The Board proposes to replace that language with

Entering into a relationship with a patient or client that constitutes a professional boundary violation in which the massage therapist uses his professional position to take advantage of the vulnerability of a patient, a client or his family, to include but not limited to actions that result in personal gain at the expense of the patient or client, a nontherapeutic personal involvement or sexual conduct with a patient or client.

According to the Department the proposed language is intended to still include initiating or engaging in any sexual conduct involving a patient as grounds for discipline. In disciplining a practitioner the Board could potentially cite Code of Virginia Section § 54.1-3007 for the additional grounds listed in the proposed regulatory language. Including this language in the regulations may make this information more visible to practitioners though. Thus, including it may produce some benefit and will not produce any cost.

Businesses and Entities Affected

The proposed amendments affect the 4866 certified massage therapists in the Commonwealth. Most are self-employed or work in small business practices.¹

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

¹ Source: Department of Health Professions

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendments may encourage more massage therapists to take a course in CPR. Private providers of CPR may encounter a modest increase in demand for their services.

Small Businesses: Costs and Other Effects

The proposed amendments are unlikely to significantly affect small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments are unlikely to significantly affect small businesses.

Real Estate Development Costs

The proposed amendments are unlikely to significantly affect real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the

regulation. The analysis presented above represents DPB's best estimate of these economic impacts.